

The record before the Appeals Board is the same as that considered by the Administrative Law Judge, including the documents filed of record with the Division of Workers Compensation in this docketed matter, the transcript of the Preliminary Hearing

before Administrative Law Judge John D. Clark on January 19, 1994, and the exhibits attached thereto.

ISSUES

The Administrative Law Judge denied respondent's motion to terminate temporary total disability compensation which prompted the respondent to seek this review.

The issues before the Appeals Board are:

- (1) Whether the Appeals Board has jurisdiction to review this matter.
- (2) Whether the claimant is entitled to temporary total disability compensation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board, for preliminary hearing purposes, makes the following findings of fact and conclusions of law:

- (1) In his Order of June 7, 1994, Administrative Law Judge John D. Clark denied respondent's motion to terminate temporary total disability compensation benefits for two reasons: 1) That claimant has sustained her burden to prove she is still totally disabled from gainful employment; and, 2) claimant has not reached maximum medical improvement and is still in need of medical treatment.

The Appeals Board does not have jurisdiction to review a finding of an Administrative Law Judge ordering temporary total disability compensation and medical treatment benefits based upon a factual determination that claimant is still totally disabled and has not reached maximum medical improvement. Here the Administrative Law Judge determined that claimant is entitled to those benefits based upon the evidence presented to date.

The jurisdiction of the Appeals Board to review preliminary hearing matters is limited to those situations which involve one of the disputed issues set forth in K.S.A. 44-534a(a)(2), or where the Administrative Law Judge has otherwise exceeded his or her jurisdiction in granting or denying the relief requested at preliminary hearing.

The Administrative Law Judge has not exceeded his jurisdiction in determining whether claimant is temporarily totally disabled and therefore entitled to benefits. Under the facts presented, the Appeals Board lacks jurisdiction to review that finding.

AWARD

WHEREFORE, it is the finding and decision of the Appeals Board that it is without jurisdiction to review the Preliminary Hearing Order of Administrative Law Judge John D. Clark, dated June 7, 1994, thereby leaving said order in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of August, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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